

**ASSEMBLY BILL**

**No. 1956**

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**Introduced by Assembly Member Bonilla**

February 19, 2014

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An act to add Section 17053 to the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1956, as introduced, Bonilla. Personal income tax: credit: qualified tuition plan.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.

This bill would allow a refundable credit in the amount of 20% of the monetary contributions made to a qualified tuition plan account, as defined, by a qualified taxpayer, as defined, not to exceed \$500 per return. This bill would provide for the payment of credit amount in excess of tax liability upon appropriation for that purpose.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 17053 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 17053. (a) For taxable years beginning on or after January 1,
- 4 2014, there shall be allowed a credit, refundable as provided in
- 5 subdivision (f), against the "net tax," as defined in Section 17039,
- 6 in the amount of 20 percent of the monetary contributions made
- 7 by a qualified taxpayer to a qualified tuition plan account that the

1 qualified taxpayer owns during the taxable year, not to exceed five  
2 hundred dollars (\$500) per return.

3 (b) For the purposes of this section:

4 (1) “Nonqualified withdrawal” means a withdrawal of funds  
5 from a qualified tuition plan account for purposes that are not  
6 qualified higher education expenses, as defined in Section 529 of  
7 the Internal Revenue Code.

8 (2) “Qualified taxpayer” means an individual who, on behalf  
9 of a beneficiary, contributes money to a qualified tuition plan  
10 account for which the individual is the account owner and has one  
11 of the following annual adjusted gross incomes:

12 (A) If the qualified taxpayer’s filing status is single, married,  
13 or domestic registered partner filing separately, one hundred  
14 thousand dollars (\$100,000) or less.

15 (B) If the qualified taxpayer files as a head of household,  
16 surviving spouse, as defined in Section 17046, married filing  
17 jointly, or domestic partner filing jointly, two hundred thousand  
18 dollars (\$200,000) or less.

19 (3) “Qualified tuition plan” means a qualified tuition program,  
20 as defined in Section 529 of the Internal Revenue Code, and  
21 established pursuant to the Golden State Scholarshare Trust Act  
22 (Article 19 (commencing with Section 69980) of Chapter 2 of Part  
23 42 of Division 5 of Title 3 of the Education Code).

24 (4) “Qualified tuition plan account” means an account described  
25 in Section 529(b)(1)(A)(ii) of the Internal Revenue Code.

26 (c) In the case of married taxpayers or registered domestic  
27 partners who file separate returns, the credit may be taken by either  
28 spouse or registered domestic partner or divided equally between  
29 the spouses or registered domestic partners.

30 (d) The credit shall be recaptured in the amount of 10 percent  
31 of any nonqualified withdrawals for a qualified tuition plan account  
32 for which the credit has been claimed, up to a maximum of the  
33 total credits received under this section.

34 (e) The Scholarshare Investment Board shall verify the amount  
35 of the contribution made and the name of the accountholder for  
36 the Franchise Tax Board.

37 (f) That portion of any credit allowed under this section that is  
38 in excess of tax liability shall, upon an appropriation by the  
39 Legislature, be paid to the taxpayer.

1 (g) (1) The Franchise Tax Board may prescribe rules,  
2 guidelines, or procedures necessary or appropriate to carry out the  
3 purposes of this section.

4 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of  
5 Division 3 of Title 2 of the Government Code does not apply to  
6 any standard, criterion, procedure, determination, rule, notice, or  
7 guideline established or issued by the Franchise Tax Board  
8 pursuant to this section.

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